

## MINUTES

### MANSFIELD PLANNING AND ZONING COMMISSION

Regular Meeting, Monday, November 17, 2008

Council Chambers, Audrey P. Beck Municipal Building

Members present:: R. Favretti (Chairman), B. Gardner, J. Goodwin,  
R. Hall, K. Holt, P. Kochenburger, P. Plante, B. Pociask, B. Ryan  
Alternates present: M. Beal, G. Lewis, L. Lombard  
Staff present:: G. Padick, Director of Planning and C. Hirsch, Zoning  
Agent

Chairman Favretti called the meeting to order at 7:00 p.m. If needed, alternates will be appointed to act in the following order: Lombard, Beal and Lewis.

#### **Minutes:**

11/3/08- Hall MOVED, Gardner seconded, to approve the 11/3/08 minutes as written. MOTION PASSED with all in favor except Kochenburger, Beal and Plante who disqualified themselves. Lombard noted that he listened to the tapes.

#### **Zoning Agent's Report:**

Items A-C were noted.

- Hirsch stated that Edward Hall called in regards to the enforcement letter. A response letter from Hall is expected this week.
- Chairman Favretti and Hirsch signed off on a modification application at Mansfield Family Practice for solar panels.

#### **Old Business:**

##### **1. Subdivision Application, Malek Manor, Lot 4, Crane Hill, File # 548-2**

Hall disqualified himself and Favretti appointed Lombard to act. Gardner MOVED, Holt seconded, to approve with conditions the subdivision application (File #548-2), of Madrid Corporation, for Malek Manor-Lot 4, on property owned by the applicant, located on Crane Hill Road, in a RAR-90 zone, as submitted to the Commission and shown on plans dated August 8, 2008 as revised to October 7, 2008.

This approval is granted because the application, as hereby approved, is considered to be in compliance with the Mansfield

Subdivision Regulations. Approval is granted with the following conditions:

1. Final plans shall be signed and sealed by the responsible surveyor, engineer, and soil scientist.
2. Pursuant to subdivision regulations, particularly Sections 7.5 and 7.6, this action specifically approves the depicted Building Area and Development Area Envelopes. Unless the Commission specifically authorizes revisions, the approved envelopes shall serve as the setback lines for all future structures and site improvements, pursuant to Article VIII of the Zoning Regulations. This condition shall be specifically noticed on the Land Records and the deed for the subject property.
3. This approval accepts the applicant's proposed conservation easement. Subject to placing Town Open Space markers every 50 to 100 feet along the southwestern property line that abuts the Nipmuck Trail property, this dedication addresses the open space requirements of Section 13 for the subject subdivision. A conservation easement document shall be approved by the Director of Planning and Town Attorney and filed on the Land Records in association with final plans. The easement shall utilize the Town's model format.
4. The approved plans include specific notes regarding stone wall preservation and, pursuant to Section 7.7, no existing stone walls shall be altered except for site work depicted on the approved plans. No stones from existing walls shall be removed from the site. Except for the approved driveway work, all specimen trees along Crane Hill Road shall remain undisturbed. In conjunction with the filing of final maps, notice of this condition shall be filed on the Land Records and referenced in the deed of the subject lot.
5. At the request of the applicant and pursuant to the provisions of Section 6.5.b, this approval waives the requirement to tie the survey to the Connecticut Plane Coordinate System. The waiver is authorized because adjacent properties, including earlier lots in the Malek Manor Subdivision, are not tied into this system and there are no nearby control points.

6. The Commission, for good cause, shall have the right to declare this approval null and void if the following deadlines are not met (unless a ninety (90) or one hundred and eighty (180) day filing extension has been granted):
  - A. All final maps, including submittal in digital format, a right-of-way deed along Crane Hill Road, a conservation easement and a Notice on the Land Records to address conditions 2 and 4 (with any associated mortgage releases) shall be submitted to the Planning Office no later than fifteen days after the appeal period provided for in Section 8-8 of the State Statutes, or, in the case of an appeal, no later than fifteen days of any judgment in favor of the applicant;
  - B. All monumentation (including delineation of the conservation easement and the southwesterly property line that abuts the Nipmuck trail parcel with iron pins and Town's official markers every 50-100 feet on perimeter trees or on cedar posts), with Surveyor's Certificate, shall be completed or bonded pursuant to the Commission's approval action and Section 14 or the Subdivision Regulations no later than fifteen days after the appeal period provided for in Section 8-8 of the State Statutes, or, in the case of an appeal, no later than fifteen days, of any judgment in favor of the applicant.MOTION PASSED UNANIMOUSLY.

**2. Special Permit Application, Conversion of 1-Family to 2-Family Residence, 1620 Storrs Rd., Y. Ghiaei, o/a File #1276**

Hall MOVED, Gardner seconded, to deny the special permit application (file #1276) of Y. Ghiaei for converting a single-family home to a 2-family dwelling at 1620 Storrs Road, in a RAR-90 zone, as shown on submitted plans and described in other application submissions and as presented at Public Hearings on 10/6/08, 10/20/08 and 11/3/08. This denial action is taken for the following reasons:

1. Conversions to 2-family dwellings are not permitted by right and require Special Permit approval (see Article VII, Section G.17 and Article X, Section J). Accordingly, to approve this application, the Commission must determine that all applicable regulations have been met for this intended occupancy.

After considering all applicant submissions and testimony, staff reports and Public Hearing testimony, the Commission has determined that many provisions of Mansfield's Zoning Regulations have not been met and that the proposal would result in health, safety, and welfare problems. The proposal does not comply with many provisions of Article X, Section J, the special permit approval criteria of Article V, Sections A.5 and B.5 and many provisions of Article I.

2. Article X, Sections J.7 and J.9 establish, as prerequisites for potential conversions, specific setbacks from front and side property lines. These setbacks were designed to protect the public's health, welfare and safety. Although the regulations authorize the PZC to reduce these setbacks, due to the significant degree of waiver required (see reports from Director of Planning) and the lack of an adequate year round buffer, the PZC does not authorize the necessary waiver of these important prerequisite setbacks.
3. Zoning Regulations necessitate that an applicant make adequate provisions for parking in order to address vehicular and pedestrian safety and neighborhood impact approval criteria. Acceptable parking spaces must be adequately sized and appropriately located. In the subject situation, the Commission has determined that the proposed seven spaces (including one garage space) are not adequate to address approval requirements. No specific provisions have been proposed to delineate individual spaces and it is anticipated that spaces will not be used as depicted and that individuals will park in unauthorized areas resulting in unsafe backing up movements. Furthermore, based on existing and anticipated student occupancy, the number of spaces is considered inadequate for all residents and guests. The proposal is not considered to be in compliance with Article I, Section B.5, Article V, Section A.5.b, e and f, or Article X, Section J.6 and other sections of the Zoning Regulations related to parking and vehicular and pedestrian safety.
4. The subject site is located along a very busy segment of Storrs Road and is in close proximity to a number of single family homes. The proposed use is expected to result in inappropriate

noise, nuisance, lighting and traffic-safety problems for neighboring single family residences. The proposal is not considered to be in compliance with Article V, Sections B.5.b, c or d, or with Article V, Sections A.5.e, f, g or k.

5. Article X, Section J.4 requires owner occupancy of one of the units in a conversion situation. In the submitted Statement of Use, it was represented that "The owner is living at the second unit." However, in the Fire Marshal's 11/3/08 report to the PZC, it is recorded that the applicant gave 286 Hanks Hill Road as his place of residence. Furthermore, during the application review process, the applicant represented that four students were residing in the larger unit. Yet, the Fire Marshal's report noted that eight individuals resided on the site at the time of a 10/30/08 fire event. Based on conflicting information received, the PZC cannot make the judgment that the provisions of Article X, Section J.4 have or will be met or that zoning occupancy requirements have or will be met. It also is noted that the subject dwelling units already exist in violation of zoning requirements which also indicates a credibility issue.

MOTION PASSED UNANIMOUSLY.

## **7. Verbal Update from Director of Planning Re: Proposed Environmental Review Team Study of Ponde Place project**

Padick updated the Commission and the public that the application for an Environmental Review Team study has been submitted and approved by the Eastern CT Review District. Padick is awaiting a meeting with the District Coordinator adding that a tentative field trip to the site with the ERT, property owners and staff is scheduled for either December 15<sup>th</sup> or 18<sup>th</sup>.

## **New Business:**

### **3. Proposed Karate School, Uriel Lodge 24, 1534 Stafford Road**

Scott Bates, applicant, stated that the proposal is to hold karate classes at the hall during weekdays from 4:30 p.m. to 8:45 pm and from 9:00 a.m. to 12:00 p.m. on Saturdays. Bates stated that the hall capacity is 212 people and there are 2 parking lots on either side of the building with 2 overhead lights. He estimated that the 50-60 parking spaces will make ample parking. Karate instructor Dan stated that there will be 15 minutes between classes, and class sizes are 10-15 students, and no student is allowed to leave the building

without an adult. Hall volunteered to work with staff to draft a motion for the next meeting.

**Old Business, continued:**

**3. 3-Lot Subdivision Application, Bassetts Bridge & South Bedlam Rds, Mansfield Hollow Estates, File # 1278**

Tabled-awaiting revised plans.

**4. Request to Review Property on South Bedlam Road and the Existing Policy that Considers a Town Line to be a Lot Line**

Holt MOVED, Hall seconded, that the Planning and Zoning Commission revise its April 3, 2006 action regarding a parcel of land on S. Bedlam Road, owned by Ross L, J and G, LLC., that is situated in both Chaplin and Mansfield as follows:

A. Based on current Connecticut Case law and Mansfield's definition of "Lot", and subject to the Town Attorney's agreement that additional subdivision approval is not required, the subject 2.07 acre merged parcel may be considered a Mansfield lot and the Mansfield portion of the property can be used for residential structures and accessory uses subject to obtaining Zoning Permit approval.

A. The subject property shall not be altered in area or frontage without subsequent approval by the Mansfield Planning and Zoning Commission.

B. Prior to the issuance of a Zoning Permit, a new map and deed that documents these revisions shall be filed on the Land Records as replacements for previously recorded documents. The subject deed and map shall be reviewed and found acceptable by the Director of Planning and Town Attorney prior to filing.

MOTION PASSED UNANIMOUSLY.

**5. Proposed CL&P "Interstate Reliability Project"**

Padick briefed the Commission on the Special Meeting with the Town Council, adding that the Town Council is prepared to send a letter to the CL&P and the Connecticut Siting Council stating that Mansfield does not support the CL&P's proposal. The consensus of the Commission was that the PZC Chairman, with staff assistance, should draft a letter, to be sent to the Siting Council with a copy to the Town Council, supporting the decision of the Town Council and also addressing specific land use issues.

6. **Discussion regarding Zoning of Land on Pleasant Valley Road and Mansfield Avenue.**

Tabled, meeting with B. & F. Hussey scheduled for 12/15/08.

**New Business, continued:**

1. **Town Council Referral: Proposed Sustainability Committee**

Padick briefed the commission and is expecting more information for the next meeting.

2. **Discussion Re: Potential Zoning and Regulation Revisions and Regulatory Review Committee Referrals**

It was agreed that a Regulatory Review Committee meeting should be scheduled. Gardner, Holt, Hall, Plante, Favretti, Beal and Lombard agreed to attend. The next meeting will be held on Monday, November 24h at 1:00 p.m.

**Reports of Officers and Committees:**

None noted.

**Communications and Bills:**

None noted.

**Adjournment:**

Favretti declared the meeting adjourned at 9:00 p.m.

Respectfully submitted,

Katherine K. Holt, Secretary